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LOS ANGELES TIMES

7 May 1986

Intelligence Violations Weighed

FILE ONLY

U.S. May File Charges Against 5 News Groups

From the Washington Post

WASHINGTON—The Reagan Administration is considering the criminal prosecution of five news organizations for publishing information about U.S. intelligence-gathering operations, particularly intercepted communications reflecting U.S. code-breaking capabilities.

Central Intelligence Agency Director William J. Casey said he had discussed the possibility of such prosecutions—never before initiated against a newspaper or magazine—with Deputy Atty. Gen. D. Lowell Jensen at a meeting last Friday at the Justice Department.

"We've already got five absolutely cold violations," Casey said, according to two Post editors who met with him later that day. Casey was apparently referring to alleged violations of a 1950 statute that makes it illegal to "knowingly and willfully" disclose or publish classified information about codes, ciphers or "communication intelligence activities of the United States or any foreign government." The CIA director added, however, that no final decision had been made about whether indictments would be sought.

Organizations Named

Casey named the five news organizations as the Washington Post (for stories about U.S. intercepts of messages between Tripoli and the Libyan People's Bureau in East Berlin), Newsweek (also for reporting on intercepted Libyan communications), the Washington Times, the New York Times and Time magazine, the last three for unspecified stories.

In addition, Casey warned Post editors that such prosecution against the newspaper would be "an alternative that would have to be considered" if the Post were to publish another story it has prepared concerning U.S. intelligence capabilities, but which the newspaper has not yet decided whether to publish.

"I'm not threatening you," Casey told Post Executive Editor Benjamin C. Bradlee and Managing Editor Leonard Downie Jr. during a meeting at the University Club last Friday. "But you've got to know that if you publish this, I would recommend that you be prosecuted under the intelligence statute."

Downie declined to discuss the unpublished article.

In the meeting, held at Casey's request, the CIA director did not specify what statute he had in mind, mentioning only "the intelligence statute" and "the criminal statute." But he appeared to be referring to Section 798 of Title 18 of the U.S. Code, the so-called "COMINT statute" that Congress first passed in 1950 to protect its communications intelligence activities.

"I mentioned (Section) 798," Bradlee recalled. "He (Casey) said 'Yeah, yeah, I don't practice law anymore. You know what I'm talking about.'"

Leaks Probed

White House National Security Adviser John M. Poindexter and Gen. William Odom, director of the code-breaking National Security Agency, also have said the Administration was looking for ways to stop a recent spate of leaks to the news media. "We're dusting off 18 USC 798," Odom told one Post editor.

The law carries a maximum penalty of 10 years in prison and a \$10,000 fine.

Officials of the other publications Casey mentioned said they knew of no similar warnings from Casey or any other high-ranking Administration official about any stories of theirs.

"It's news to me," said New York Times Executive Editor A. M. Rosenthal. "I know we did stories (in recent weeks) that referred to intercepts (of Libyan cables) from East Berlin. But I know nothing officially about it."

Arnaud de Borchgrave, editor-in-chief of the Washington Times, said: "This comes like a bolt out of the blue. . . . I have been chewed out by Bill Casey at private dinners, but in a very friendly way. There was nothing menacing about it."

Stephen Smith, executive editor of Newsweek, and Harry Johnston, general counsel for the Time magazine group, both said they knew nothing about any possible prosecution.

Officials at the Justice Department refused to comment.

"There isn't really much we can say about it," Justice Department spokesman Patrick Korten said. "Whatever conversations are held at this point should probably be between Bradlee and Casey and perhaps (Atty. Gen. Edwin) Meese."